



MANOA NEIGHBORHOOD BOARD NO. 7

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Resolution Opposing Manoa Banyan Court Draft Environmental Assessment (DEA) as Insufficient Modification to Adequately Mitigate Detrimental Impacts to the Manoa Community

Manoa Neighborhood Board No. 7

January 4, 2023

WHEREAS, the Mānoa Chinese Cemetery (“cemetery”) was established in 1851, and is owned and managed by the Lin Yee Chung Association (LYCA);

WHEREAS, at the February 2, 2022 Mānoa Neighborhood Board No. 7 meeting, LYCA presented a proposed development on cemetery property entitled Mānoa Banyan Court (“MBC”), consisting of, among other things, four (4) residential courtyard buildings, each three (3) stories tall with 72 dwelling units, creating a total complex of 288 dwelling units available for rent for those meeting certain age and income restrictions; and

WHEREAS, LYCA proposed building MBC’s medium-density residential buildings on land currently zoned Preservation (P-2) and currently covered with vegetation and large trees and a few small structures by obtaining exemptions to existing zoning through Hawaii Revised Statutes (HRS) § 201H-38; and

WHEREAS, in September 2022, the Mānoa Neighborhood Board No. 7 passed a “Resolution Opposing the Manoa Banyan Court Project as Proposed,” citing opposition to the MBC expressed by the community through (1) oral testimony opposing the MBC at the February 2, 2022, March 2, 2022, and April 6, 2022 regular board meetings; (2) written testimony provided to the Board; (3) a petition opposing the MBC that had gathered 3,155 signatures, and; (4) testimony opposing the MBC at a Town Hall organized by two non-profits and Council Member Calvin Say; and

WHEREAS, LYCA submitted in November 2022 a Draft Environmental Assessment (“DEA”) for MBC to the City and County of Honolulu Department of Permitting and Planning (“DPP”) with an anticipated determination of Finding of No Significant Impact (“FONSI”), which was accepted by DPP and published for public review on December 23, 2022 by State of Hawaii’s Environmental Review Program; and

WHEREAS, Hawai’i statutory law requires DPP to “respond in writing to comments received during the review and prepare a final environmental assessment to determine whether an environmental impact statement shall be required” (HRS § 343-5(c)(3)) and to require an environmental impact statement (“EIS”) if the “proposed action *may* have a significant effect on the environment” (HRS § 343-5(c)(4) (emphasis added); *Pele Def. Fund. V. Dep’t of Land & Natural Res.*, 141 Hawai’i 381 (App. 2018)); and

WHEREAS, the Hawai’i Supreme Court has held that the term “may” in HRS 343-5(c) should be construed as “likely,” and that the “proper inquiry for determining the ‘necessity of an EIS based on the language of HRS 343-5(c), then, is whether the proposed action will ‘likely’ have a significant effect on the environment” (*Kepo’o v. Kane*, 106 Hawai’i 270, 289 (2005)); and

WHEREAS, in determining whether an action has a significant impact on the environment, DPP must consider the “significance criteria” outlined in HAR § 11-200.1-13 (*see Kilakila 'O Haleakalā v. Univ. of Haw.*, 138 Hawai’i 364, 370 (2016) (citing the significance criteria that were formerly contained in HAR § 11-200-2)); and

WHEREAS, pursuant to HAR § 11-200.1-2, a “significant impact” is defined as:

the sum of effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the state’s environmental policies or long-term environmental goals and guidelines as established by



law, or adversely affect the economic or social welfare, or are otherwise set forth in section 11-200-12 of this chapter.

WHEREAS, the residents of Mānoa have raised concerns that MBC as outlined in the DEA will have a significant impact as follows:

Effects	Applicable Significance Criteria
Increased risks of flooding to the residents of Lower Road and all residents downstream of MBC due to water runoff created by the loss of forest, vegetation and porous ground on the P-2 parcel where MBC's residential buildings will be built.	HAR § 11-200.1-13(b)(11) (Have a substantial adverse effect on or be likely to suffer damage by being located in an environmentally sensitive area such as a flood Plain[.])
Failing to conserve and protect the P-2 parcel which is "forest" and an "open space area" (see the Primary Urban Center Development Plan) as required by the State Environmental Policy (HRS § 344-4(2)(D)).	HAR § 11-200.1-13(b)(3)(Conflict with the State's environmental policies or long-term environmental goals established by law)
Increased traffic congestion in Mānoa in general, and on and near Lower Road, Woodlawn, and East Mānoa due to the impact of the cars belonging to MBC's 288 to 576 residents driving to and from MBC and entering and exiting MBC's parking lots.	HAR § 11-200.1-13(b)(6) (Involve adverse secondary impacts, such as...effects on public facilities)
Increased parking of vehicles on and near Lower Road and East Mānoa because LYCA (as disclosed in the DEA) does not plan on originally providing a parking stall near the residential buildings for each of the 288 units at MBC, but only 225.	HAR § 11-200.1-13(b)(6) (Involve adverse secondary impacts, such as...effects on public facilities)

WHEREAS, should LYCA be required to prepare and submit to DPP an EIS, the Mānoa community will have further information to evaluate these significant impacts and obtain protection from them, and THEREFORE:

BE IT RESOLVED that Manoa Neighborhood Board No. 7 urges DPP to reject the finding of "FONS!" proposed by the DEA and to require LYCA to prepare and submit an Environmental Impact Statement; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the Director and Deputy Director of the Department of Planning and Permitting for the City and County of Honolulu, the Executive Director and Deputy Director of Hawaii Housing Finance & Development Corporation for the State of Hawaii, the Governor of the State of Hawaii, each member of the Hawaii State Legislature, the Mayor of the City and County of Honolulu, and each Councilmember of the City and County of Honolulu.

***The Manoa Neighborhood Board No. 7 PASSED this resolution
By MAJORITY vote of 11-2-2
at the Wednesday, January 4, 2023 Regular Meeting.***

Submitted by: Jeremy K. Hopkins
Jeremy "Kama" Hopkins, Board Chair